

Claims 1-20 are pending in this application.

REQUIREMENT FOR UNITY OF INVENTION

As provided in 37 CFR 1.475(a), an international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept (“requirement of unity of invention”). Where a group of inventions is claimed in an international application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression “special technical features” shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. See 37 CFR 1.475(e).

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group I, claims 1-2 (in part), 3, 5-12 (in part), 13, 15-20 (in part), drawn to fungicidal mixture, composition and method comprising I + pyraclostrobin + III azole compounds.

Group II, claims 1-2 (in part), 4, 5-12 (in part), 14, 15-20 (in part), drawn to fungicidal mixture, composition and method comprising I + orysastrobin + III azole compounds.

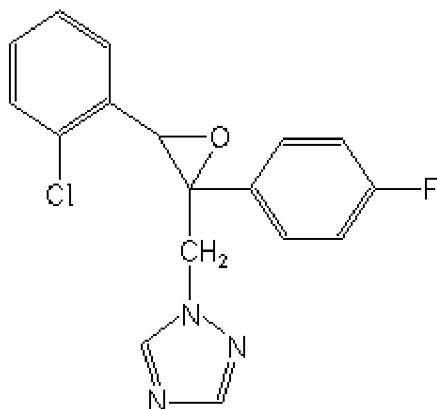
Applicant is further required to elect a single disclosed species of III azole compound, such as for example epoxiconazole or prochloraz.

Under lack of unity rules as stated above, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression “special technical features” is defined as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior

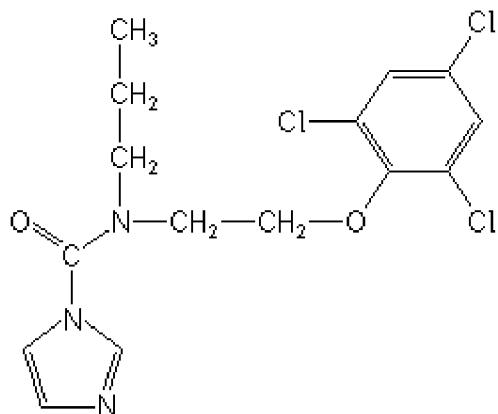
art. The “contribution over the prior art” is considered with respect to novelty and inventive step. See PCT Rule 13.1 and 13.2; see also MPEP 1850.

The two inventions lack unity of invention because all of the compounds are known pesticidal active agents and the two inventions utilize a structurally distinct second active ingredient as set forth above. Pyraclostrobin has a pyrazole moiety and methoxycarbanilate strobilurin structure, whereas orysastrobin has a methoxyiminoacetamide strobilurin structure with no heterocyclic moiety. These are two structurally divergent compounds. Contribution that each invention potentially makes over the prior art would have to come from the specific combinations that depend on the particulars of each compound present in the combination. MPEP 1850 makes it clear that when the common ingredients of the mixture inventions are known, there is lack of unity of invention. See for example, U.S. Patent 7,098,170, claims 1-40, claim 40 in particular.

As for the species election requirement regarding III azoles, it is noted that many azoles are structurally divergent from each other. For example, epoxiconazole has the following structure:



; whereas prochloraz has this structure:



Clearly, these are structurally divergent compounds (pyrazole vs. triazole with an epoxide), and a search for one compound would not necessarily satisfy a complete search for the other compound. Therefore, the same reasoning applies as to the species of III: they are all known fungicides and contribution over the prior art would have to come from the specifics of the particular combination of I + II + III.

There would also be undue burden in having to search and examine more than one invention. Pesticidal active ingredients used in this invention as well-known compounds and each compound would have to be laboriously searched through the extensive body of literature and databases, including non-patent databases, to complete a thorough search. Under the facts of this application, the additional search required would rise up to a level that would be undue.

For these reasons, the claims lack a unity of invention. Applicant is required to elect either group I or group II, **and further elect** a species of III such as epoxiconazole or prochloraz.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620**. The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Johann Richter, can be reached on **(571)272-0646**.

The fax phone number for the organization where this application or proceeding is assigned is **(571)273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Pak/
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